(4)

cf 1001

IN THE HIGH COURT OF CHHATTISGARH
AT BILASPUR

SINGLE BENCH

W.P. (S) No. 567 /2007

Petitioner : Ajay Kumar Lariya, S/o. Late Ratnu ram Lariya, aged about 26 years, Occupation unemployed Resident of Danteshwari Ward No.12, Nishad Para, Kawardha (Now District Kabirdham) (C.G.)

P.R. No. 5931/07 Moofoja Alam
Presented on 12/11/07
dated

VERSUS

Respondents :1 State of Chhattisgarh, Through Secretary, Panchayat & Rural Development Department, DKS Bhawan, Raipur (C.G.)

: 2) Development Commissioner, Chhattisgarh Panchayat & Rural Development, Raipur (C.G.)

RECEIVED-COPY 17/11/07
CLERK to A. G. BILASPUR

: 3) Assistant Development Commissioner, Janpad Panchayat, Borla, District Kawardha. (C.G.)

:4) Collector, District Kabirdham (Kawardha) (C.G.)

: 5) Chief Executive Officer, District Panchayat, Kawardha (C.G.)

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRIT/WRITS, ORDER/ORDERS, DIRECTION/DIRECTIONS etc.

(34)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

W. P. (S) No. 567 of 2007

Petitioner : Ajay Kumar Lariya

Versus

Respondent : State of Chhattisgarh & others

Smt. Hamida Siddque, Advocate for the petitioner.

Shri V. V. S. Murthy, Deputy Advocate General with Shri Arvind Dubey, Panel lawyer for the respondents/State.

ORDER

(Passed on this 5th day of March, 2007)

1. According to learned counsel appearing for the petitioner, the father of the petitioner namely Shri Ratnu Ram Lariya, was working as Peon in the Block office at Borla District Kawardha with the respondents/State, when he died on 25.12.1991 in harness.
2. The petitioner, being dependant-legal hair of the deceased, made an application for appointment on compassionate basis on 24.6.1999 (Annexure P/3). Thereafter the petitioner filed an application to the respondent No.4 on 27.11.1999. The case of the petitioner, along with other similarly situated persons, was recommend to the Government vide letter dated 17.4.2002 (Annexure P/6) but the respondents have not yet granted compassionate appointment to the petitioner.
3. Learned counsel appearing for the petitioner submits that the petitioner is entitled to appointment on compassionate basis.

(35)

4. The petitioner has filed this petition with unexplained and inordinate delay, seeking a direction to the respondents to grant compassionate appointment. The father of the petitioner died on 25.12.1991 and the petitioner applied for compassionate appointment on 24.6.1999.

5. It is well settled that the appointment on compassionate ground is not a method of recruitment, but, is a facility to provide for immediate rehabilitation of the family in distress for relieving the dependent family members of the deceased employee from destitution. In other words, the object of compassionate appointment is to enable penurious family to tide over the sudden financial crisis and is not to provide employment. It is also well settled that mere death of the employee does not entitle his family to claim compassionate appointment if the family members could sustain themselves financially from other sources of income.

6. In **Haryana State Electricity Board and another Vs. Hakim Singh** { (1997) 8 SCC 85 } the Supreme Court held that "the whole object of any compassionate appointment scheme is to give succor to the family to tide over the sudden financial crisis befallen the dependents on account of the untimely demise of its sole earning member."

7. The Supreme Court in the case of **State of J & K and others Vs. Sajad Ahmd Mir** { (2006) 5 S.C.C. 766 }, in para 11 has held as under :-

> "11.....it is that such an appointment is an exception to the general rule. Normally, an employment in the Government or other public sectors should be open to all eligible candidates who can come forward to apply and

compete with each other. It is in consonance with Article 14 of the Constitution. On the basis of competitive merits, an appointment should be made to public office. This general rule should not be departed from except where compelling circumstances demand, such as, death of the sole breadwinner and likelihood of the family suffering because of the setback. Once it is proved that in spite of the death of the breadwinner, the family survived and substantial period is over, there is no necessity to say "goodbye" to the normal rule of appointment and to show favour to one at the cost of the interests of several others ignoring the mandate of Article 14 of the Constitution."

8. In view of the above settled principles of law, there is no merit in this petition. The petition is accordingly dismissed summarily. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Thakur